

OFFICIAL COPY

Fresno, California May 17, 2005

The City Council met in regular session at the hour of 8:30 a.m. in the Council Chamber, City Hall, on the day above written.

Present:	Tom Boyajian	Councilmember
	Brian Calhoun	Councilmember
	Jerry Duncan	Acting Council President
	Henry Perea	Councilmember
	Cynthia Sterling	Councilmember
	Larry Westerlund	Councilmember
	Mike Dages	Council President

Andy Souza, City Manager  
Jon Ruiz, Assistant City Manager  
Hilda Cantu Montoy, City Attorney  
Jim Sanchez, Chief Assistant City Attorney  
Becky Klisch, City Clerk  
Yolanda Salazar, Assistant City Clerk

Father Vahan Gosdanian, Holy Trinity Armenian Apostolic Church, gave the invocation, and Councilmember Westerlund led the Pledge of Allegiance.

PROCLAMATION OF NATIONAL PUBLIC WORKS WEEK

PROCLAMATION OF BIKE WEEK

PROCLAMATION OF EOC FOSTER GRANDPARENTS PROGRAM DAY

RESOLUTION OF COMMENDATION TO JOHN HUNT ON BEING SELECTED PUBLIC SECTOR FLEET MANAGER OF THE YEAR - MAYOR AUTRY

PROCLAMATION OF MEN WHO COOK AND SOME WHO DON'T DAY - COUNCIL MEMBERS BOYAJIAN AND PEREA

The above proclamations and resolution were read and presented.

RECOGNITION OF OUTSTANDING READERS AT EDISON-BETHUNE ELEMENTARY SCHOOL - COUNCILMEMBER STERLING

Recognized.

PRESENTATION OF AWARDS TO DISTRICT 7 STUDENTS

Presented.

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**APPROVE MINUTES OF MAY 10, 2005:**

On motion of Councilmember Westerlund, seconded by Councilmember Sterling, duly carried, RESOLVED, the minutes of May 10, 2005, approved as submitted. Councilmember Perea left the meeting at 9:25 a.m.

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**COUNCIL MEMBER REPORTS AND COMMENTS:**

**145-178****5/17/05****BASE REALIGNMENT AND CLOSING COMMISSION (BRACC) - COUNCILMEMBER WESTERLUND**

Councilmember Westerlund stated the valley was fortunate as our military bases were not on the list and would not be closed, added the \$30,000 investment for a consultant was a good investment, and stated the BRACC process would continue and he would stay on top of the issue.

**REQUEST FOR STATUS ON SUBMITTAL OF STAFF REPORT ON DEVELOPMENT FEES - COUNCILMEMBER CALHOUN**

Councilmember Calhoun questioned what the delay was stressing many housing tracts were continuing to be approved with the old fees and the city was losing thousands and thousands of dollars and he was very unhappy with the situation. City Manager Souza stated staff was still working on the issue and the matter would be brought forth as quickly as possible.

**SANTA FE DEPOT ISSUE - COUNCILMEMBER CALHOUN**

Noting the new depot station was not open Councilmember Calhoun questioned what could be done to get BNSF to the table and added he wanted to take action against them, with City Attorney Montoy stating she would work with the city manager and report back to Council in either open or closed session with options.

**\*\*Visiting 5<sup>th</sup> and 6<sup>th</sup> grade Student Council representatives from Liberty School in Kerman were recognized and welcomed.**

**(1) FIRE DEPARTMENT FUND-RAISING EVENT AT CENTRAL DISTRIBUTING; (2) FULTON PLAZA THURSDAYS, AND (3) UPCOMING "SUDZ IN THE CITY" EVENT - COUNCILMEMBER STERLING**

Councilmember Sterling commended the fire department on their successful event this past Saturday; advised the first Fulton Plaza Thursdays event was held last Thursday and it was a great event, encouraged everyone to attend, and commended the Downtown Association; and advised the Sudz in the City event would be May 21<sup>st</sup> at Grizzly stadium, again commended the Association for all they are doing, and requested those interested in purchasing tickets to call the Downtown Association at 490-9966.

**THANK YOU TO PUBLIC WORKS DIRECTOR HEALEY AND PUBLIC WORKS, CODE ENFORCEMENT AND POLICE DEPARTMENT STAFF FOR MEETING ON COMMUNITY FACILITIES DISTRICTS (CFDs) - PRESIDENT DAGES**

Commendation made.

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**APPROVE AGENDA:**

**(10:00 A.M.) CONSIDER ACQUISITION OF A TIME AND ACTIVITY SOFTWARE AND BUSINESS INTELLIGENCE/ANALYTICS SOFTWARE**

**1. AUTHORIZE THE CHIEF INFORMATION OFFICER (CIO) TO NEGOTIATE AND ENTER INTO A CONTRACT FOR KRONOS WORKFORCE CENTRAL SOFTWARE LICENSES AND RELATED IMPLEMENTATION SERVICES AND 3 YEARS OF ONGOING SUPPORT AND MAINTENANCE, SUBJECT TO APPROPRIATION OF FUNDS**

**2. AUTHORIZE THE CIO TO NEGOTIATE AND ENTER INTO A CONTRACT FOR COGNOS METRICS MANAGER SOFTWARE LICENSES AND RELATED IMPLEMENTATION SERVICES AND 3 YEARS OF ONGOING SUPPORT AND MAINTENANCE, SUBJECT TO APPROPRIATION OF FUNDS**

**3. APPROVE THE ACQUISITION OF NECESSARY ADDITIONAL HARDWARE, SUBJECT TO APPROPRIATION OF FUNDS**

**4. AUTHORIZE THE CITY CONTROLLER TO SELECT, NEGOTIATE AND ENTER INTO A FINANCING AGREEMENT WITH A FIRM FOR LEASING SERVICES TO ARRANGE THE LEASE ACQUISITION OF KRONOS WORKFORCE CENTRAL SOFTWARE AND COGNOS METRICS MANAGER SOFTWARE AND RESPECTIVE RELATED IMPLEMENTATION SERVICES, SUPPORT AND MAINTENANCE CONTRACTS AND HARDWARE FOR AN AMOUNT NOT TO EXCEED \$1,555,000, SUBJECT TO APPROPRIATION OF FUNDS**

**5. AUTHORIZE THE CIO TO NEGOTIATE AND ENTER INTO A TERMINATION RIGHTS AGREEMENT WITH IMMIX TECHNOLOGY AND/OR KRONOS, INC., IF REQUIRED, UNDER A FINANCING AGREEMENT WITH THE CITY'S LENDER FOR LEASE ACQUISITION OF KRONOS WORKFORCE CENTRAL SOFTWARE LICENSES**

**6. AUTHORIZE THE CIO TO NEGOTIATE AND ENTER INTO A TERMINATION RIGHTS AGREEMENT WITH COGNOS CORPORATION, IF REQUIRED, UNDER A FINANCING AGREEMENT WITH THE CITY'S LENDER FOR LEASE ACQUISITION OF COGNOS METRICS MANAGER SOFTWARE LICENSES**

145-179

5/17/05

7. RESOLUTION - 58<sup>TH</sup> AMENDMENT TO AAR 2004-209 APPROPRIATING \$1,831,852 FOR THE ACQUISITION OF KRONOS WORKFORCE CENTRAL SOFTWARE AND COGNOS METRICS MANAGER SOFTWARE AND ASSOCIATED IMPLEMENTATION AND HARDWARE COSTS

-and-

(2:45 P.M.) JOINT MEETING WITH THE REDEVELOPMENT AGENCY

(A) HEARING TO CONSIDER ADOPTION OF A RESOLUTION APPROVING THE FIVE YEAR REDEVELOPMENT IMPLEMENTATION PLANS FOR THE MERGER NO. 1, MERGER NO. 2, AND FRESNO AIR TERMINAL REDEVELOPMENT PROJECT AREAS

Councilmember Westerlund stated he wanted to table the 10:00 a.m. item to June 7<sup>th</sup> so he could do some further investigation and site visits and added the contract was not "quite there yet", and made a motion to table. Councilmember Westerlund stated he also wanted to table Agency Item A to June 7<sup>th</sup> due to Council's full calendar this date stating the matter required adequate time and Council's full consideration and made a motion to table.

On motion of Councilmember Westerlund, seconded by Councilmember Sterling, duly carried, RESOLVED, the above entitled 10:00 A.M. item tabled to June 7, 2005, at 10:00 a.m., and the 2:45 P.M. item tabled to June 7, 2005, at 2:45 p.m., by the following vote:

Ayes : Boyajian, Calhoun, Duncan, Sterling, Westerlund, Dages  
Noes : None  
Absent : Perea

Councilmember Perea returned to the meeting at 9:38 a.m. City Clerk Klisch advised there were already numerous items scheduled between 10:00 and 11:00 a.m. on June 7<sup>th</sup>, and Councilmember Duncan stated if necessary he would move his Charter amendment item scheduled for June 7<sup>th</sup> at 11:00 a.m. to another date.

(5:30 P.M.) CONTINUED HEARING ON R-04-14 FILED BY FANCHER CREEK PROPERTIES - FANCHER CREEK PROJECT

-and-

(6:00 P.M.) RESOLUTION INITIATING A PLAN AMENDMENT TO THE 2025 FRESNO GENERA PLAN AND ROOSEVELT COMMUNITY PLAN

Councilmember Duncan advised he owns property in the area and he would have to recuse himself from the above proceedings due to that conflict of interest.

(1-K) APPROVE CONTRACT CHANGE ORDER NO. 9 FOR THE CONVENTION CENTER PARKING STRUCTURE PROJECT

Removed from the agenda by staff.

(1-P) RESOLUTION - APPROVING THE FINAL MAP OF TRACT NO. 5321 ON W. MCKINLEY EAST OF N. CORNELIA AVENUE, ACCEPTING DEDICATED PUBLIC USES THEREIN, AND AUTHORIZING EXECUTION OF RELATED DOCUMENTS

Removed from the agenda by staff.

Upon question of Councilmember Perea, President Dages advised of the changes made to the agenda during his absence.

On motion of Councilmember Duncan, seconded by Councilmember Westerlund, duly carried, RESOLVED, the AGENDA hereby approved, *as amended*, by the following vote:

Ayes : Boyajian, Calhoun, Duncan, Sterling, Westerlund, Dages  
Noes : Perea  
Absent : None

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ADOPT CONSENT CALENDAR:

145-180

5/17/05

City Clerk Klisch read a statement into the record from Gloria Torrez, who was unable to attend the meeting, in opposition to Item 1-U stating FAX does not get the monies allocated from current Measure "C", those monies have gone to Calcot, and the plan was to continue to take FAX money, and requested the public and those with a conscience not vote for the new Measure "C" in the next election.

**(1-A) ACTIONS RELATIVE TO THE OFFICE OF TRAFFIC SAFETY (OTS) AREA ILLEGAL STREET RACING TASK FORCE GRANT PROGRAM AWARD**

**1. RESOLUTION NO. 2005-164** - AUTHORIZING APPLICATION FOR AND ACCEPTANCE OF THE GRANT PROGRAM AWARD OF \$400,000 AND EXECUTION OF RELATED DOCUMENTS

**2. RESOLUTION NO. 2005-165** - 80<sup>TH</sup> AMENDMENT TO AAR 2004-209 APPROPRIATING \$30,000 TO THE POLICE DEPARTMENT FOR THE PROGRAM

**3. RESOLUTION NO. 2005-166** - 23<sup>RD</sup> AMENDMENT TO PAR 2004-210 ADDING ONE POSITION TO THE POLICE DEPARTMENT FOR THE PROGRAM

**(1-B) ADOPT RESOLUTION OF INTENTION NO. 1040-D FOR THE VACATION OF A PORTION OF TUOLUMNE STREET BETWEEN THE BROADWAY-FULTON ALLEY AND FULTON STREET AND SETTING THE PUBLIC HEARING FOR JUNE 7, 2005 AT 10:30 A.M.**

**(1-C) RESOLUTION NO. 2005-168** - 84<sup>TH</sup> AMENDMENT TO AAR 2004-209 APPROPRIATING \$30,300 IN ADDITIONAL REVENUE FROM THE INFORMATION SERVICES DEPARTMENT FOR THE CONNECTION AND MAINTENANCE OF ISD TO THE FIBER OPTIC CABLE BETWEEN CITY HALL AND THE MUNICIPAL SERVICE CENTER (MSC)

**(1-I) RESOLUTION NO. 2005-174** - INTENT TO ANNEX TRACT NO. 5395 TO CFD NO. 2, ANNEXATION NO. 97, AND SETTING A HEARING FOR JUNE 21, 2005, AT 10:15 A.M.

**(1-J) RESOLUTION NO. 2005-175** - INTENT TO ANNEX TRACT NO. 5210 TO CFD NO. 2, ANNEXATION NO. 96, AND SETTING A HEARING FOR JUNE 21, 2005, AT 10:10 A.M.

**(1-L) RESOLUTION NO. 2005-176** - INTENT TO ANNEX FINAL TRACT NO. 5196 TO CFD NO. 2, ANNEXATION NO. 95, AND SETTING THE HEARING FOR JUNE 21, 2005, AT 10:05 A.M.

**(1-M) RESOLUTION NO. 2005-177** - INTENT TO ANNEX FINAL TRACT NO. 5215 TO CFD NO. 2, ANNEXATION NO. 94, AND SETTING THE HEARING FOR JUNE 21, 2005, AT 10:00 A.M.

**(1-N) RESOLUTION NO. 2005-178** - APPROVING THE REALLOCATION OF \$50,000 IN PROPOSITION 111 SPECIAL GAS TAX FUNDS FROM THE BLACKSTONE/BULLARD INTERSECTION IMPROVEMENT PROJECT TO THE "O" STREET IMPROVEMENTS PROJECT BETWEEN FREEWAY 41 AND VENTURA STREET

**(1-O) APPROVE THE QUITCLAIM OF THE CITY'S EXISTING ACCESS EASEMENT FROM WILLOW AVENUE TO THE SURFACE WATER TREATMENT FACILITY (SWTF) TO THE STATE CENTER COMMUNITY COLLEGE DISTRICT (SCCCD)**

**1. APPROVE THE ACQUISITION OF A SUBSTITUTE ACCESS EASEMENT FROM BEHYMER TO THE SWTF TO BE CONVEYED TO THE CITY BY THE SCCC, AND AUTHORIZE THE ACQUISITION OF AN EASEMENT FOR A 60-INCH WATER SUPPLY PIPELINE ACROSS SCCC LAND**

**2. AUTHORIZE THE PUBLIC WORKS DIRECTOR TO SIGN THE EASEMENT AND PROPERTY AGREEMENT, SIGN AND RECORD THE QUITCLAIM DEED TO SCCC, AND ACCEPT ON BEHALF OF THE CITY THE NEW ACCESS EASEMENT DEED AND THE EASEMENT DEED FOR THE UNDERGROUND WATER SUPPLY PIPELINE TO SERVE THE SWTF**

**(1-Q) RESOLUTION NO. 2005-179** - AUTHORIZING SUBMITTAL OF GRANT APPLICATIONS FOR AND ACCEPTANCE OF THE CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD (CIWMB) FUNDING FOR ALL AVAILABLE GRANTS UNDER THE CALIFORNIA OIL RECYCLING ENHANCEMENT ACT AND ALL AVAILABLE HOUSEHOLD HAZARDOUS WASTE (HHW) GRANTS UNDER THE CIWM ACT FOR THE PERIOD 7/1/05 TO 6/30/10, AND AUTHORIZING THE PUBLIC UTILITIES DIRECTOR OR DESIGNEE TO EXECUTE ALL NECESSARY DOCUMENTS

**(1-R) RESOLUTION NO. 2005-180** - 83<sup>RD</sup> AMENDMENT TO AAR 2004-209 APPROPRIATING \$248,000 OF PG&E INCENTIVE GRANT FUNDS FOR ENERGY EFFICIENCY IMPROVEMENTS

145-181

5/17/05

**(1-S)** GRANTING RELIEF TO HAYDON CONSTRUCTION FROM THE BID THEY SUBMITTED DUE TO AN INADVERTENT CLERICAL ERROR, AND AWARD A CONTRACT TO KELLY C. BROYLES, INC., FOR THE BASE BID AND ADD ALTERNATE NO. 1 IN THE AMOUNT OF \$520,160 FOR INSTALLATION OF AN 8" WATER MAIN IN N. SAN PABLO AND N. GLENN AVENUES, AND A 12" WATER MAIN IN N. BLACKSTONE AND E. SIERRA AVENUE

**(1-T) RESOLUTION NO. 2 005-181** - 75<sup>TH</sup> AMENDMENT TO AAR 2004-209 APPROPRIATING \$1,348,100 FOR THE BI-ANNUAL UGM REIMBURSEMENTS TO APPROVED DEVELOPERS FROM AVAILABLE FUNDS

On motion of Councilmember Duncan, seconded by Councilmember Perea, duly carried, RESOLVED, the above entitled **CONSENT CALENDAR** hereby adopted, by the following vote

Ayes : Boyajian, Calhoun, Duncan, Perea, Sterling, Westerlund, Dages  
 Noes : None  
 Absent : None

**(1-D) RESOLUTION NO. 2005-169** - CONSIDER CHANGING THE RATE AND METHOD OF APPORTIONING THE SPECIAL TAX, ESTABLISHING A NEW MAXIMUM SPECIAL TAX FOR CFD NO. 2, ANNEXATION NO. 61, FINAL TRACT NO. 4598, AND SETTING A HEARING FOR JUNE 21, 2005 AT 10:40 A.M.

**(1-E) RESOLUTION NO. 2005-170** - CONSIDER CHANGING THE RATE AND METHOD OF APPORTIONING THE SPECIAL TAX, ESTABLISHING A NEW MAXIMUM SPECIAL TAX FOR CFD NO. 2, ANNEXATION NO. 31, FINAL TRACT NO. 4983, AND SETTING A HEARING FOR JUNE 21, 2005 AT 10:35 A.M.

**(1-F) RESOLUTION NO. 2005-171** - CONSIDER CHANGING THE RATE AND METHOD OF APPORTIONING THE SPECIAL TAX, ESTABLISHING A NEW MAXIMUM SPECIAL TAX FOR CFD NO. 2, ANNEXATION NO. 83, FINAL TRACT NO. 5237, AND SETTING A HEARING FOR JUNE 21, 2005 AT 10:30 A.M.

**(1-G) RESOLUTION NO. 2005-172** - CONSIDER CHANGING THE RATE AND METHOD OF APPORTIONING THE SPECIAL TAX, ESTABLISHING A NEW MAXIMUM SPECIAL TAX FOR CFD NO. 2, ANNEXATION NO. 82, FINAL TRACT NO. 5295, AND SETTING A HEARING FOR JUNE 21, 2005 AT 10:25 A.M.

**(1-H) RESOLUTION NO. 2005-173** - CONSIDER CHANGING THE RATE AND METHOD OF APPORTIONING THE SPECIAL TAX, ESTABLISHING A NEW MAXIMUM SPECIAL TAX FOR CFD NO. 2, ANNEXATION NO. 81, FINAL TRACT NO. 5258, AND SETTING A HEARING FOR JUNE 21, 2005 AT 10:20 A.M.

Councilmember Calhoun stated until he receives the report on CFDs and LLMDs as promised by staff he would continue to oppose these matters.

On motion of Councilmember Duncan, seconded by Councilmember Perea, duly carried, RESOLVED, the above entitled **CONSENT CALENDAR** Items **1-D, 1-E, 1-F, 1-G** and **1-H** hereby adopted, by the following vote

Ayes : Boyajian, Duncan, Perea, Sterling, Westerlund, Dages  
 Noes : Calhoun  
 Absent : None

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**(9:00 A.M.) PUBLIC COMMENT PERIOD - UNSCHEDULED COMMUNICATION:**

APPEARANCE BY TONY FARMER REGARDING A PROBLEM HE IS HAVING WITH THE POLICE DEPARTMENT

Mr. Farmer stated false information about him was given to a state agency by the police department and he was very upset about that, noted there were other concerns that some City Council members were looking into, requested an acknowledgment that an investigation was occurring or stated he would go to the Grand Jury, and submitted written material into the record, a copy of which is on file in the office of the city clerk. President Dages stated he would refer Mr. Farmer's material to the city attorney for proper handling.

**145-182****5/17/05**

After the following statement by President Dages, Councilmember Boyajian clarified he was not looking into any investigation, stated he brought up the issue of nepotism last week and added it not only dealt with the police department but also the public works department, and spoke briefly to Charter Section 807 and the need to educate department heads, with City Attorney Montoy stating staff was working on the issue due to previous direction received.

#### REQUEST TO SPEAK BY SENATOR DEAN FLOREZ - PRESIDENT DAGES

President Dages advised Senator Florez wanted to address Council for a few minutes but could not be present until 2:00 p.m. and with Council consensus President Dages continued Public Comments/Unscheduled Communication to 2:00 p.m. for Senator Florez only. (\*Note - during the afternoon session President Dages announced Senator Florez would not be able to appear as planned.)

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#### **(9:35 A.M.) CONTINUED HEARING TO CONSIDER ADOPTION OF A RESOLUTION AMENDING THE CITY'S NONDISPOSAL FACILITY ELEMENT**

##### **1. RESOLUTION NO. 2005-182 - AMENDING THE CITY OF FRESNO NONDISPOSAL FACILITY ELEMENT (TO INCLUDE WEST COAST WASTE, INC.'S SITE)**

President Dages announced the time had arrived to consider the issue and opened the hearing. Interim Public Utilities Director Weimiller reviewed the issue as contained in the staff report as submitted, displaying photographs of the site before and after clean-up by West Coast Waste, Inc., and recommended the resolution be adopted.

Dennis Balekian, President, West Coast Waste, spoke to the condition of the site when they purchased the property, stated the clean-up was a major undertaking and advised how the site was cleaned up, and thanked staff and all involved who assisted them in this project and stated it was an honor to serve the city. Mr. Weimiller also advised West Coast Waste added appropriate fire suppression on site which had not been there before.

Upon call, no one else wished to be heard and President Dages closed the hearing.

Councilmember Calhoun spoke in support stating this was going to be a quality operation and was good for Fresno, and presented questions relative to the solid waste transfer station in the county that was denied a few weeks ago, with Mr. Weimiller responding. Councilmember Boyajian stated he and former Councilmember Ronquillo were skeptical when West Coast Waste first took over the operation and stated they were now very appreciative of all the good West Coast Waste has done for the city of Fresno. Councilmember Sterling urged Council to tour the facility as she had and commended West Coast Waste for what they have done at the site, and presented questions relative to Exhibit "A", Page 4, "Proposed New Facilities" including where a facility would be located and who would own it **(3 - 0)** (with Mr. Weimiller responding), and requested Council be kept informed. Councilmember Perea stated he also toured the facility and it was top notch, he was very impressed, and Fresno should be very proud, and President Dages concurred with all the comments made.

On motion of Councilmember Duncan, seconded by Councilmember Calhoun, duly carried, RESOLVED, the above entitled Resolution No. 2005-182 hereby adopted, by the following vote:

Ayes :	Boyajian, Calhoun, Duncan, Perea, Sterling, Westerlund, Dages
Noes :	None
Absent :	None

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#### **RECESS - 10:12 A.M. - 10:37 A.M.**

#### **(10:30 A.M.) QUARTERLY REPORT ON THE PROGRESS OF THE WEST FRESNO WORKGROUP ON IMPLEMENTING THE RECOMMENDATIONS OF THE WEST FRESNO COMMUNITY VISION PLAN - COUNCILMEMBER STERLING**

Councilmember Sterling referred to her memo as submitted containing the group's outline and achievements, thanked the group and staff for all their hard work stating they were doing an outstanding job, and stated great headway was being made and advised FAX and Parks & Recreation would soon be invited to join the group as some recommendations in those areas still needed to be addressed.

145-183

5/17/05

W. Ross Tate, 2318 S. Walnut, spoke to plans for his neighborhood and stated he and his neighbors objected to the plans and they did not want their homes bulldozed for a swimming pool. Councilmember Sterling clarified Mr. Tate was referring to the 2:45 p.m. item and requested Mr. Tate meet with her office staff to obtain appropriate staff contact to address his concerns.

There was no further discussion.

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**(10:45 A.M.) HEARING ON REZONE APPLICATION NO. R-04-82 AND ENVIRONMENTAL FINDINGS FILED BY LENNAR HOMES, INC., CAMBRIDGE HOMES, AND SIX PROPERTY OWNERS (RAYMOND & SHIRLEY BROWN, SHARON K. DALE, EDWARD FANUCCHI, RUBIN & JENNI LERMA, YOSHIO NAKASHIGE, AND CHARLES & DOROTHY RAPP), PROPERTY LOCATED ON THE SOUTHWEST CORNER OF W. SHIELDS AND N. CORNELIA AVENUES IN COUNCIL DISTRICT 1**

**1. CONSIDER AND ADOPT E.A. NO. R-04-82/T-5406, FINDING OF CONFORMITY TO THE 2025 FRESNO GENERAL PLAN MASTER EIR**

**2. BILL NO. B-48 - ORDINANCE NO. 2005-50 - AMENDING THE OFFICIAL ZONE MAP TO REZONE FROM RR TO R-1/UGM**

President Dages announced the time had arrived to consider the issue and opened the hearing. Planner Brock reviewed the issue as contained in the staff report as submitted and recommended approval.

Timothy Jones, 2445 Capitol Street, representing the applicants, stated this was a good project and they concurred with all conditions.

Upon call, no one else wished to be heard and President Dages closed the hearing.

Lengthy discussion ensued. Councilmember Boyajian stressed a focused study/EIR for the area was needed and the cumulative impacts needed to be looked at to determine how the project would impact the area and elaborated. Councilmember Calhoun expressed his concern with the lack of updated development fees stating it has been months and there was no resolution in sight; stated he was very unhappy as the city was subsidizing projects; stated either staff needed to present what was promised or he would send a memo to the city attorney and city manager inquiring if it would be appropriate to declare a residential and commercial moratorium on projects; and stressed the city was still dealing with the old fees and developers needed to pay. Councilmember Westerlund stated he was also deeply concerned the city was operating under 1989 impact fees and agreed the updated fees needed to come forth, and presented questions relative to lack of a park, the Roosevelt Community Plan's park space requirement, issues relative to the regional trail, who conducted the traffic study, and what criteria was required to be under a Master EIR, with Ms. Brock and Mr. Jones responding throughout.

A motion and second was made to approve staff's recommendation and discussion continued. Councilmember Duncan complimented Ms. Brock on her thorough job, cautioned Council about overreacting to issues and holding legitimate projects hostage stating the applicants followed all the rules and paid required fees, stated changing rules was fine but stressed there was a process, questioned if fees could just be changed arbitrarily without justification and if departments were currently working fervently on studies to change the fees, and again cautioned Council about using terms like *moratorium* stating it was unnecessary and would send a scary shudder through workers and their families who depend on the building industry for their livelihoods, with Chief Assistant City Attorney Sanchez and Assistant City Manager Ruiz responding to questions throughout. Councilmember Boyajian stated any traffic study that talks about contributions to Shaw and Brawley but not Shields/Brawley and Shields/Blythe was flawed, and spoke additionally to CEQA issues, his concerns, and to a lawsuit wherein the city was sued and elaborated. President Dages stated the problem here was Council giving direction to staff and staff's not performing, stressed it was not the developer's fault and noted the BIA was willing to pay the increased fees and they have also been waiting for months, questioned how long something could be studied stressing the fee issue was being studied to death, concurred with Councilmember Duncan that people were abiding by all the rules and their projects should not be held up because staff has not performed, expressed his concern with the Strong Mayor Form of Government and with Council giving direction and staff not carrying it out, and stated the city was charging developers less than they were willing to pay and he would support the motion.

On motion of Councilmember Duncan, seconded by Councilmember Perea, duly carried, **RESOLVED**, the Finding of Conformity for E.A. No. R-5406/R-04-82, dated February 25, 2005, that the project proposal conforms to the provisions of the 2025 Fresno General Plan Master EIR No. 10130 hereby approved, and the above entitled Bill No. B-48 reclassifying the zoning adopted as Ordinance No. 2005-50, by the following vote:

145-184

5/17/05

Ayes : Duncan, Perea, Sterling, Westerlund, Dages  
 Noes : Boyajian  
 Absent : None  
 Abstain : Calhoun

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**(11:00 A.M.) REPORT REGARDING ASSISTANCE TO FRESNO UNIFIED SCHOOL DISTRICT (FUSD) IN BECOMING AN OUTSTANDING SCHOOL DISTRICT**

City Education Officer Madrid thanked and recognized school district officials in attendance and gave an overview of the issue, all as contained in the staff report as submitted **(4 - 0)**.

Luisa Median, Fresno Unified School Board President, expressed her appreciation for the City's efforts and assistance on behalf of th Board, asked that on-going partnerships not be ignored and explained, and spoke to issues of importance to the Board.

Discussion ensued with Councilmembers Calhoun, Boyajian and Sterling thanking staff and the Board, commenting on various issues including this being a learning experience, amount of city staff involvement, preventing state takeovers, the importance of cooperation and partnering, improving infrastructure and the living environment of students, and commending the collaboration, with Ms. Medina responding throughout. Councilmember Perea advised he meets with his district's school principals every quarter in a "Principal's Roundtable" to immediately address and focus on "nitty-gritty" issues from a grass routes level, and encouraged members to do the same stating it was very helpful. Upon question of President Dages, Chief Assistant City Attorney Sanchez stated Council's past motion was very broad and based on comments made staff had sufficient direction to carry out at this time. Councilmember Calhoun stated rather than dictating to staff he wanted to invite the city manager to report back with an update and/or to specifically ask Council to do something, with City Manager Souza stating this was the first step in that process and the city would continue to build on the relationship. There was no further discussion.

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**LUNCH RECESS - 11:52 A.M. - 2:02 P.M.**

**(2:00 P.M. #1) CONTESTED CONSENT CALENDAR:**

**(1-U) APPROVAL OF REPORT RELATED TO MEASURE "C"**

Councilmember Calhoun spoke to the issue and presented questions/concerns at length relative to staff's report containing correct numbers but broad/general information, if it would have been more useful to have a more detailed report to send to the committee, the steering committee appointed to deal with Measure "C" not having the "foggiest idea" of what this means to the city of Fresno, if listing actual impacts and types of services that would be lost would have meant a lot more than indicating a loss \$5.7 million in funds, if staff would be reporting back to Council if the committee requires more information, and this being a sad way to start the Measure "C" campaign, with Director of Transportation Rudd responding to questions and clarifying issues throughout, and Councilmember Perea adding this report was just the beginning of discussions and advising how he became a committee member **(5 - 0)**.

On motion of Councilmember Perea, seconded by Councilmember Duncan, duly carried, RESOLVED, the report related to Measure "C" hereby approved as presented, by the following vote:

Ayes : Boyajian, Calhoun, Duncan, Perea, Sterling, Westerlund, Dages  
 Noes : None  
 Absent : None

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President Dages advised Senator Florez would not be able to appear as intended as he was still in Sacramento.

**(2:00 P.M. #2) CLOSED SESSION:**

**145-185**

**5/17/05**

**(A) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION - CASE NAMES:**

- 1. ROBERT L. RICH V. MEG MARGARET HELEN LORETTA; THE CITY OF FRESNO POLICE DEPARTMENT AND THE CITY OF FRESNO, ET AL.**
- 2. RHONDA JACKSON V. CITY OF FRESNO, ET AL.**
- 3. BLAIR CARLSON V. CITY OF FRESNO**

**(B) CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION - CASE NAME: DATA911 V. CITY OF FRESNO**

The City Council met in closed session in Room 2125 at the hour of 2:20 p.m. to consider the above matters and reconvened in regular open session at 2:59 p.m.

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President Dages advised those in the audience that were present for the 2:45 p.m. Agency item that the matter was tabled during the morning session to June 7, 2005. An unidentified woman and gentleman stated people were here at 1:50 p.m. and the notice of the matter being tabled was not posted.

**(2:30 P.M.) PRESENTATION OF PLAQUE AND A FORMAL "THANK YOU" FOR SERVICE TO OUTGOING CHAIRPERSON OF THE FRESNO RENAISSANCE EMPOWERMENT ZONE BOARD, ERIC R. JOHNSON, PRESENTED BY NEWLY APPOINTED CHAIRPERSON FRANK GALLEGOS, FOLLOWED BY A BRIEF, INFORMAL UPDATE ON THE EMPOWERMENT ZONE BY FRANK GALLEGOS**

The presentation was made and Councilmember Boyajian and President Dages commended Mr. Johnson for all he has done for the community. Mr. Gallegos submitted the *Fresno Renaissance Empowerment Zone Board of Directors 2005 Goals and Workplan*, a copy of which is on file in the office of the city clerk, and gave an update and responded briefly to questions relative to whether literature/brochures were available to give out to interested businesses. Mr. Gallegos thanked city staff and everyone else who has helped the Board.

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**(3:00 P.M.) HEARING TO CONSIDER AN APPEAL OF ENVIRONMENTAL FINDING OF CATEGORICAL EXEMPTION PURSUANT TO CEQA GUIDELINES RELATED TO SITE PLAN REVIEW APPLICATION NO. S-04-540 PROPOSING THE RENOVATION OF THE FRESNO METROPOLITAN MUSEUM - FRESNO BEE BUILDING, HISTORIC PROPERTY NO. 119**

President Dages announced the time had arrived to consider the issue and opened the hearing.

Planning Manager Unruh and Historic Preservation Project Manager Hattersely-Drayton gave a lengthy, detailed PowerPoint presentation including the history of the Fresno Bee building, the project, and the appeal, all as contained in the staff report as submitted, and recommended the issuance of the Categorical Exemption be affirmed.

Attorney Richard Harriman, representing the appellants, Heritage Fresno Co-Chair Midge Barrett, and Jeanette Jerkovich stated the Categorical Exemption was not in accordance with law **(6 - 0)**, advised of their objections, explained their position, submitted a petition in opposition to demolishing the Theatre 3 building (on file in the office of the city clerk), stated an EIR was needed, and spoke to restoration standards.

Speaking to the issue were: Paul Gibson, 5380 N. Fresno St., President, Fresno Metropolitan Museum Board of Trustees, support for the museum restoration project; John Moffat, Fresno City & County Historical Society, support for the project/submitted letter from the Board of Trustees requesting Council affirm the exemption, on file in the office of the city clerk; Jon Carroll, who spoke to the three publicly noticed hearings that were held on the project; and Steve Newvine, Greater Fresno Area Chamber of Commerce, support for the museum and its proposed project.

Upon call, no one else wished to be heard and President Dages closed the hearing.

A motion and second was made to approve staff's recommendation and lengthy discussion ensued. Councilmember Duncan stated there was starting to be a pattern -- the obstruction of improving downtown at any cost -- and it was wrong and disturbing to him, stated the Metropolitan Museum had done a lot for the community and has worked hard, upon his question City Manager Souza stated approximately \$7,000 to \$8,000 in staff time had been spent in preparing this item/appeal, and stated he was pleased to support the museum and help make them successful. City Attorney Montoy, Ms. Hattersely-Drayton and Mr. Carroll responded to questions of Councilmember Westerlund relative

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to what the standard was for a CEQA exemption, the appellants' position that a fair argument could be made, the public hearings held and noticed, if the appellants were noticed, when staff received Mr. Patnaude's letter, the argument that this was being done piecemeal, and what the economic impact would be to the museum if the appeal were to be upheld. Councilmember Westerlund stated after hearing the argument on both sides he would support the motion as legal requirements were met and proper findings were made. Councilmember Perea stated he has been a staunch supporter of historic preservation while on Council, advised he would oppose any future attempt to tear down the Theatre 3 building as it was a unique asset to the city but clarified that was a future issue, and relative to the subject issue stated he put a lot of trust and faith in the city's historic preservation team, there was no reason to stop the Met's project, and he would support the motion. Jill Moffat, Ms. Hattersely-Drayton, Mr. Carroll and Ms. Jerkovich responded to questions of Councilmembers Sterling and Boyajian relative to the old courthouse dome, if the dome would be housed at the museum, if Ms. Moffat was supportive of the Met's project, if the building facade was taken into consideration/if it would be part of the restoration, if the building would be ADA upgraded, if the museum was currently not operating, what problems the Met was going through and what the impact would be if the building is not renovated, if museum artifacts would be moved to other facilities in the area, this project being well thought out and the plus of private money being used, **(7 - 0)** what exactly would be modified, the statement made on the need to consider cumulative impacts, concern with demolishing the Theatre 3 building, if the appellants felt the footprint would be changed/if part of the building would be removed, and if the project called for tearing down or remodeling portions of the building. Councilmember Calhoun stated he seconded the motion with somewhat a heavy heart and he felt the city was in a classic example of a gray area, stated while he was supportive of the denial he was also very appreciative of having people who raise these questions/issues, and added he was appreciative of all parties involved and stated good things were happening downtown.

On motion of Councilmember Duncan, seconded by Councilmember Calhoun, duly carried, RESOLVED, the appeal denied and the Planning and Development Department's issuance of a Categorical Exemption as provided by CEQA guidelines for Site Plan Review Application No. S-04-540 hereby approved, by the following vote:

Ayes :	Boyajian, Calhoun, Duncan, Perea, Sterling, Westerlund, Dages
Noes :	None
Absent :	None

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#### **RECESS - 4:46 P.M. - 5:35 P.M.**

**(5:30 P.M.)** HEARING ON REZONE APPLICATION NO. R-04-14 AND PROPOSED FINAL ENVIRONMENTAL IMPACT REPORT (EIR) NO. 10133, FILED BY FANCHER CREEK PROPERTIES, PERTAINING TO APPROXIMATELY 424 ACRES OF PROPERTY LOCATED ON THE NORTHWEST AND NORTHEAST CORNER OF E. KINGS CANYON ROAD AND FOWLER AVENUES, THE NORTHWEST AND SOUTHWEST CORNERS OF BELMONT AND ARMSTRONG AVENUES, AND THE NORTHEAST AND SOUTHEAST CORNERS OF CLOVIS AND TULARE AVENUES IN COUNCIL DISTRICT 5 - FANCHER CREEK PROJECT

**1. RESOLUTION NO. 2005-183** - CERTIFYING FINAL EIR NO. 10133 AND ADOPTING THE STATEMENT OF OVERRIDING CONSIDERATIONS

**2. BILL NO. B-49 - ORDINANCE NO. 2005-51** - AMENDING THE OFFICIAL ZONE MAP TO REZONE 424 ACRES OF PROPERTY FROM AE-5/UGM AND AE-20 AND R-1-AH (COUNTY) TO R-1/BA-15/UGM/cz FOR 211 ACRES, TO R-2/BA-15/UGM/cz FOR 32 ACRES, TO C-2/BA-15/UGM/cz FOR 32 ACRES, TO C-2/BA-15/UGM/cz FOR 31 ACRES, TO C-3/UGM/cz FOR 43 ACRES, AND TO M-1/BA-15/UGM/cz FOR 107 ACRES (STAFF ALTERNATIVE), **AS AMENDED**

**3. RESOLUTION NO. 2005-184** - APPROVE STREET ALIGNMENTS AND WIDTHS OF PROPOSED PUBLIC STREETS WITHIN THE BOUNDARIES OF VESTING TENTATIVE PARCEL MAP NO. 2004-36

President Dages announced the time had arrived to consider the issue and opened the hearing; advised Councilmember Duncan had to recuse himself from the proceedings due to a conflict of interest as he owned property near the subject area, and spoke in strong

support of the issue stating it was his hope history would be made this date by approving the project, emphasized more apartments were not wanted in his district and explained, and stated this was going to be a quality project and was long overdue in southeast Fresno and elaborated on the project components.

Planner Sanchez gave an in-depth overview of the project and related issues, all as contained in the staff report as submitted; Bruce O'Neal of Land Use Associates spoke to the environmental impact report; Engineer Grant Johnson spoke at length to his analysis of the growth response study **(8 - 0)**; Charlie Klause of TPG Consulting gave an overview of the traffic study conducted; and Planning Manager Unruh advised of staff's recommendations and clarified issues relative to the growth response tools stating although the tools were not available for the preparation of this EIR they would be used in the future.

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Applicant Tom Richards, Fancher Creek Properties, acknowledged city staff members and thanked them for their assistance, gave an extensive review of the project including its history and all related matters **(9 - 0)**, and submitted written information into the record and requested approval.

Speaking to the issue were: Cynthia Palacio, on behalf of the Sunnyside/Fancher Creek Association, support for the project; Steve Newvine, CEO of the Chamber of Commerce, support; Dr. Arnold Gazarian, co-owner of the MEGG parcel, who stated they were not timely noticed when Fancher Drive was added to the 2025 General Plan and spoke in opposition to using eminent domain on their property; Brian Haughton, representing the MEGG parcel property owners, opposed to eminent domain; Joe Guagliardo, 5414 E. Pitt, support for the project; Patience Milrod, 844 N. Van Ness, who spoke to health/air quality issues and need for the least impacts on the neighborhood as possible; Tom Lang, 5546 Columbia Drive N., who asked Council to consider the implications of Clovis Avenue being widened to only six lanes and requested it be changed to eight lanes; John Hutson, Secretary, Building and Construction Trades, support for the project citing the need for, and creation of, jobs **(10- 0)**; Bruce Woodward, 6072 E. Alta, who spoke to traffic concerns; Cathy McHarry, 189 N. Argyle, who advised she was not informed of the project until March and spoke to traffic and wildlife concerns; Randy Garabedian, 523 N. Burgan, who stated roads in the maps keep changing and expressed concern; Steve Donovan, 6048 E. Cimmaron, Sunnyside/Fancher Creek Association and member of the Roosevelt Implementation Committee, who spoke to pros and cons/concerns; Dave Spaur, President/CEO, Economic Development Corporation, support; Cathy Colby, 528 E. Lansing Way, support; Sue Williams, Sunnyside Property Owners Association, traffic and noise concerns and recommended some conditions; Dale Cutlett, 6119 E. Iowa, traffic/student safety concerns; Dale Heinrichs, 6076 E. Illinois, traffic/student safety concerns; and Karen Musson, 1771 S. Waverly, Sunnyside Property Owners Association, speaking as vice chair of the Roosevelt Implementation Committee, who spoke to traffic and emergency access concerns and made some recommendations.

Upon call, no one else wished to be heard and President Dages closed the public hearing.

#### **RECESS - 8:21 P.M. - 8:31 P.M.**

Upon question of President Dages, Deputy City Attorney Phelan stated Council had the authority to establish truck routes and not the applicant, whereupon President Dages directed staff to schedule the Fowler Avenue truck route issue on the June 7<sup>th</sup> agenda. Upon the request of President Dages, Tom Gibbs, Counsel for Fancher Creek Properties, responded to some comments made by speakers, which he said contained some inaccuracies, relative to the MEGG parcel and the issue of condemnation.

President Dages spoke to and advised of issues he would be including in a subsequent motion as follows: (1) Condition #6/Page 20, **(11 - 0)** traffic signals A, B, C and D to be developed in the first phase with the other signals to be based on development activity; (2) Condition #7, *add* the widening of Fowler Avenue to four lanes between Kings Canyon Road and Belmont as part of the first phase; and (3) *delete* condition #9 (installation of two left-turn lanes on northbound Clovis Avenue at Kings Canyon). President Dages then made a motion to approve staff's recommendation, including the above three amendments and added language to "soften" eminent domain, which language was read into the record by City Attorney Montoy, who also clarified issues relative to Fancher Creek Boulevard being required under the general plan. The motion was seconded by Councilmember Perea.

Lengthy discussion ensued. Caltrans representative Moses Stites, Mr. Sanchez, Ms. Montoy, Planning & Development Director Yovino and Traffic Engineering Manager Benavides responded to questions of Councilmember Boyajian relative to Freeway 180 construction, cost for Clovis Avenue off-ramps, funding availability, what Caltrans' concerns were, signalization issues, Clovis Avenue expansion, concern with a lot of issues being deferred, Fowler Avenue widening, who would pay for traffic signals, how traffic circulation would be affected if the MEGG partners prevailed, and what the ramifications would be if the MEGG property prevailed in a lawsuit. Councilmember Westerlund stated he weighed very heavily all the testimony and what was best for the entire city—not just district 5; stated this was a wonderful in-fill project consistent with the general plan, the project being a master planned community made even more sense,

and the project was in area that needed to grow; encouraged the MEGG partners to come together and work out an agreement stating both parcels needed to be developed at the same time to reap the bounty at the same time; questioned the motion relative to whether there were options other than the developer presenting the property owner with an offer based upon an appraised value of the property (with Ms. Montoy responding affirmatively); and stated going to the extreme of eminent domain would be a last resort for him. Councilmember Sterling commented on various issues at length including the growth response study, COG Director Goodwin's letter, if staff was committed to pursuing the growth response study, past conditions now being addressed that were not mitigated when the project was first conceived, the growth response study being the result of the Copper River lawsuit, commitment that Council will be environmentally conscious on this and other projects, the EIR the developer was asked to conduct, her having knowledge of the project from the start to this point (**12 - 0**), how the developer followed all requests, and her requests to Dr. Gazarian and all involved to do the right thing and work out an agreement and to Mr. Richards to work with the medical advocates and Ms. Milrod to address their health concerns.

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On motion of President Dages, seconded by Councilmember Perea, duly carried, RESOLVED, the above entitled Resolution No. 2005-183 certifying Final EIR No. 10133 dated October 2004, for the Fancher Creek Project as determined by the Council after having applied its own independent judgment and analysis based upon the findings noted in the Resolution and its attached Exhibits A through E hereby adopted; the above entitled Resolution No. 2005-184 hereby adopted; and the above entitled Bill No. B-49 approving Rezone Application No. R-04-14 adopted as Ordinance No. 2005-51, as amended, to include the following three changes:

(1) Condition #6, Page 20, traffic signals A, B, C and D to be developed in the first phase with the other signals to be based on development activity;

(2) Condition #7, adding the widening of Fowler Avenue to four lanes between Kings Canyon Road and Belmont as part of the first phase;

(3) deleting condition #9 relative to the installation of two left-turn lanes on northbound Clovis Avenue at Kings Canyon; and, adding the following language:

(a) Developer shall use reasonable steps to acquire the necessary property, including but not limited to, presenting the property owner with an offer based upon an appraised value of the property. In the event that the Developer is unable to acquire the necessary right-of-way within a reasonable period of time and after reasonable effort, the Developer may request the City to utilize its powers of Eminent Domain to acquire the necessary public right-of-way;

(b) Before the City determines to pursue the acquisition of said public right-of-way by use of its powers of Eminent Domain, the City shall require that the Developer demonstrate its reasonable efforts to acquire the property. If the City is satisfied, the City will proceed with the Eminent Domain process. In that event, the City shall comply with all applicable legal requirements including a public hearing for the adoption of a Resolution of Necessity pursuant to the Eminent Domain Law of the State of California, Code of Civil Procedure Section 1245.210 through 1245.270. The City Council shall exercise its sole discretion to adopt a Resolution of Necessity; and

(c) The conditions shall run with the land and bind any successor in interest developing parcels 313-101-22 and 24 pursuant to the approval of the C-3/UGM zoning. The conditions set forth herein will be satisfied upon the Developer's or City's acquisition of the property. If the City proceeds with Eminent Domain, the Developer shall be obligated for all costs incurred by the City, by the following vote:

Ayes :	Boyajian, Calhoun, Perea, Sterling, Westerlund, Dages
Noes :	None
Absent :	None
Recused :	Duncan

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**(6:00 P.M.) RESOLUTION - INITIATING A PLAN AMENDMENT TO THE 2025 FRESNO GENERAL PLAN AND THE ROOSEVELT COMMUNITY PLAN - COUNCILMEMBER BOYAJIAN**

Councilmember Boyajian stated the matter was moot due to Council's preceding action (the 5:30 p.m. item) and removed the item from the agenda.

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## ADJOURNMENT

There being no further business to bring before the Council, the hour of 9:38 p.m. having arrived and hearing no objections, President Dages declared the meeting adjourned.

\_\_\_\_\_/s/\_\_\_\_\_  
Mike Dages, Council President

\_\_\_\_\_/s/\_\_\_\_\_  
Yolanda Salazar, Assistant City Clerk

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